

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.331 OF 2002

1. Shri Shashikant Rajaram Naik,
 2. Smt. Shobha alias Shilpa Shashikant Naik, both residing at House No.621, Gudem, Siolim, Bardez, Goa.
- ... Petitioners.

versus

1. Shri Vithu Dattaram Chari
 2. Shri Vishal Vithu Chari, both residing at House No.750, Portawaddo, Siolim, Bardez, Goa.
 3. Shri Gabriel Remedios
 4. Smt. Filomena Remedios, both residing at House No.1025, Siolim, Bardez, Goa.
- ... Respondents.

Mr. Valmiki Menezes, Advocate for the Petitioners.

Mr. V. P. Thali, Advocate for the Respondent Nos.1 and 2.

CORAM: P. V. HARDAS, J.

DATED: 14TH FEBRUARY, 2003.

ORAL JUDGMENT

Rule made returnable forthwith.

2. The Petitioners/Original Defendants have filed the Petition challenging the Order passed by the Civil

Judge, Junior Division at Mapusa, dated 15th June, 2002, by which the learned Trial Court had allowed Civil Miscellaneous Application No.91.02/D filed by the present Respondents/Plaintiffs and had directed the present Petitioners/Defendants not to interfere in the suit shop No.1. By the same Order, the learned Trial Court had rejected Civil Miscellaneous Application No.243/02/D filed by the Petitioners. The Petitioners being aggrieved by the aforesaid Order of the learned Trial Court had preferred Miscellaneous Civil Appeal No.70 of 2002 before the Additional District Judge at Panaji. The learned lower appellate Court by Judgment dated 27th September, 2002, dismissed the Appeal filed by the present Petitioners.

3. Both the Courts have recorded a concurrent finding of fact that the Respondents/Plaintiffs are in possession and have made out a prima facie case under O.39 R.1 and 2. There does not appear to be any error of jurisdiction and a finding of fact, therefore, arrived at by the two Courts below cannot be assailed in the present Petition.

4. Mr. Valmiki Menezes, learned Counsel appearing on behalf of the Petitioners states that the issues have been framed and the suit is ripe for recording evidence.

5. In view of this, the learned Trial Court is directed to expeditiously decide the Civil Suit preferably within six months from the receipt of the writ of this Court.

6. Writ Petition No.331 of 2002 is accordingly dismissed with no order as to costs with the aforesaid directions. Needless to mention interim Order stands vacated. Rule discharged.

P. V. HARDAS, J.

RD.